

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

In re:	§	
	§	Chapter 11
	§	
BLUE DIAMOND ENERGY, INC.	§	Case No. 23-50490 JAW
	§	
Debtor. <sup>1</sup>	§	
	§	

**STIPULATED FACTS AND EXHIBITS IN CONNECTION WITH HEARING ON  
MOTION OF ESCAMBIA TRUSTEE TO DIRECT THE APPOINTMENT OF A BLUE  
DIAMOND TRUSTEE [BLUE DIAMOND DOCKET NO. 532]**

The undersigned stipulate to the following facts and exhibits in connection with the following pleadings scheduled to be heard on February 28, 2024:

- A. *Motion of Escambia Trustee to Direct the Appointment of a Blue Diamond Trustee* [Blue Diamond Docket No. 532];
- B. *Response to Motion for Appointment of Chapter 11 Trustee* [Blue Diamond Docket No. 547];
- C. *Joinder by Resource Strategies, LLC, et al., To Motion of Escambia Trustee to Direct the Appointment of a Blue Diamond Trustee* [Blue Diamond Docket No. 544]; and
- D. *Joinder in Escambia Trustee’s Motion for Appointment of Blue Diamond Trustee* [Blue Diamond Docket No. 545].

**I. STIPULATED FACTS**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. On April 2, 2023, the following entities filed voluntary petitions for relief under

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<sup>1</sup> The debtor in this chapter 11 case (the “**Blue Diamond Case**”), along with the last four digits of its federal tax identification number, is Blue Diamond Energy, Inc. (“**Blue Diamond**”) (2190).

chapter 11 of title 11 of the United States Code:

- Blue Diamond [Blue Diamond Docket No. 1]
- Escambia Operating Company, LLC (“**Escambia Operating**”), Case No. 23-50491-JAW [Escambia Operating Docket No. 1]
- Escambia Asset Company, LLC (“**Escambia Asset**”), Case No. 23-50492-JAW [Escambia Asset Docket No. 1].

3. Blue Diamond is the sole owner of Escambia Operating and Escambia Asset. [Blue Diamond Docket No. 10].

4. Blue Diamond has no employees, no income, and no active bank account. [Monthly Operating Report, Blue Diamond Docket No. 527].

5. Thomas Swarek is the sole owner of Blue Diamond. [Blue Diamond Docket Nos. 28, Schedules and Statement of Financial Affairs; and 160, Amended List of Equity Security Holders].

6. Thomas Swarek was the President of Blue Diamond, Escambia Operating, and Escambia Asset as of April 2, 2023. [Blue Diamond Docket No. 1; Escambia Operating Docket No. 1; Escambia Asset Docket No. 1].

7. Blue Diamond has amended its original Schedules and Statement of Financial Affairs numerous times. [Blue Diamond Docket Nos. 96, 97, 99, 104, 161, 163].

8. No chapter 11 plan has been confirmed in the Blue Diamond Case.

9. The exclusivity periods under 11 U.S.C. § 1121(c) have expired in the Blue Diamond Case.

10. Blue Diamond, Escambia Operating, and Escambia Asset are co-defendants in

litigation matters.<sup>2</sup>

11. Drew McManigle (“**Escambia Trustee**”) is the duly appointed trustee for Escambia Operating Company, LLC and Escambia Asset Company, LLC. [Escambia Operating Jt. Admin. Docket No. 139].

12. The Escambia Trustee’s attorneys have filed appearances in the Blue Diamond Case. [Blue Diamond Docket Nos. 503 and 510-511].

13. A bank account (“**Account**”) at The First ending in 3240 styled “Blue Diamond Energy, Inc. d/b/a Escambia” was an Escambia Operating Account [Blue Diamond Docket Nos. 254 at 10; 255 at 11; 256 at 9; and 434 at 13].

14. A trustee has been appointed in the chapter 11 case of *El Dorado Gas & Oil, Inc.*, Case No. 23-51715-JAW, an affiliate of Thomas Swarek [El Dorado Docket No. 193].

15. A trustee has been appointed in the chapter 11 case of Hugoton Operating Company, Inc., Case No. 23-51139-JAW, an affiliate of Thomas Swarek [Hugoton Docket Nos. 164, 196].

## II. STIPULATED EXHIBITS<sup>3</sup>

16. *Motion for Substantive Consolidation* [Blue Diamond Docket No. 66; Escambia Operating Docket No. 64. Escambia Asset Docket No. 66] [**Stipulated Exhibit 1**].

17. *Agreed Order Resolving Motion for Substantive Consolidation* [Blue Diamond Jt. Admin. Docket No. 116] [**Stipulated Exhibit 2**].

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<sup>2</sup> *Breitbart Operating LP v. Escambia Operating Company LLC, Blue Diamond Energy, Inc., and Thomas Swarek*, Case No. A2401-2022-342 (Miss. Cir., Oct. 27, 2022); *Resource Strategies, LLC, et al. v. Escambia Operating Co., LLC, Blue Diamond Energy, Inc., and Thomas L. Swarek*, Case No. 22-CV-00126, U.S. Dist. Ct for the Southern District of Alabama.

<sup>3</sup> A notebook containing the Stipulated Exhibits will be delivered to Chambers in advance of the hearing.

18. *Disclosure Statement* [Blue Diamond Jt. Admin. Docket No. 446] and *Plan of Reorganization* [Blue Diamond Jt. Admin. Docket No. 447] [composite **Stipulated Exhibit 3**].

19. *Agreed Order Resolving Breitburn Operating LP's Motion for Appointment of a Chapter 11 Trustee* [Blue Diamond Jt. Admin. Docket No. 470] [**Stipulated Exhibit 4**].

20. *Joint Motion of Perfection Global LLC and Waupaca Foundry, Inc. for Relief From the Automatic Stay and Abandonment* [Blue Diamond Jt. Admin. Docket No. 455] [**Stipulated Exhibit 5**].

21. *Response to Joint Motion of Perfection Global, LLC and Waupaca Foundry, Inc. For Relief From the Automatic Stay and Abandonment* [Blue Diamond Docket No. 502; Escambia Operating Docket No. 151] [**Stipulated Exhibit 6**].

22. *Order Granting Joint Motion of Perfection Global, LLC and Waupaca Foundry, Inc. For Relief From the Automatic Stay and Abandonment* [Blue Diamond Docket No. 526; Escambia Asset Docket No. 196] [**Stipulated Exhibit 7**].

23. Warranty Deed recorded on March 11, 2022, as Instrument 2022-0005710-D-J1 in the Office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi [**Stipulated Exhibit 8**].

24. Real Property Tax Rolls of Harrison County, Mississippi [**Stipulated Exhibit 9**].

25. Check No. 1002 drawn on the Account [**Stipulated Exhibit 10**].

26. Warranty Deed recorded on July 8, 2022, as Instrument 2022-0017257-D-J1 in the Office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi [**Stipulated Exhibit 11**].

27. Real Property Tax Rolls of Harrison County, Mississippi [**Stipulated Exhibit 12**].

28. Check No. 1007 drawn on the Account [**Stipulated Exhibit 13**].

29. Warranty Deed recorded on March 30, 2022, as Instrument 2022-0007234-D-J1 in the Office of the Chancery Clerk of the First Judicial District of Harrison County, Mississippi, may have been purchased with funds that originated in Escambia Operating [Stipulated Exhibit 14].

30. Real Property Tax Rolls of Harrison County, Mississippi [Stipulated Exhibit 15].

31. *Schedule A/B* [Blue Diamond Docket No. 28] [Stipulated Exhibit 16].

32. *Amended Schedule A/B* [Blue Diamond Docket No. 97] [Stipulated Exhibit 17].

33. Excerpts from Transcript of Blue Diamond Section 341 Meeting [Stipulated Exhibit 18].

34. Transcript [Escambia Operating Docket No. 292] of hearing on *Chapter 11 Trustee's Emergency Motion (1) to Enforce Agreed Order Resolving Breitburn Operating LP's Motion for Appointment of a Chapter 11 Trustee; (2) for Contempt; (3) for Judicial Sanctions; (4) for Injunctive Relief; (5) for Expedited Consideration; and (6) Related Relief* [Escambia Operating Docket No. 212] [Stipulated Exhibit 19].

**WHEREFORE**, the undersigned enter this stipulation of facts and exhibits.

**STIPULATED TO:**

*[Remainder of Page Intentionally Blank]*

/s/ Jeffrey R. Barber

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**CERTIFICATE OF SERVICE**

I certify that on February 26, 2024, I caused a copy of the foregoing document to be served by electronic transmission to all registered ECF users appearing in this case.

/s/ Jeffrey R. Barber